

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

WILLIAM ROGOPOULOS, #1415219,

Petitioner,

v.

ACTION NO. 2:19cv649

UNKNOWN,

Respondent.

**UNITED STATES MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION**

Petitioner William Rogopoulos (“Rogopoulos”), a Virginia inmate, submitted a pleading challenging a detainer, which has been construed as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF Nos. 1–2. This matter was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. For the following reasons, the Court **RECOMMENDS** that Rogopoulos’ petition be **DISMISSED WITHOUT PREJUDICE** for failure to pay the filing fee.

After reviewing Rogopoulos’ inmate account report provided by Lawrenceville Correctional Center, the Court denied his request to proceed *in forma pauperis* on March 4, 2020. ECF Nos. 7–8, 10.

On January 29, 2020, Rogopoulos transferred to Dillwyn Correctional Center, and the finance officer forwarded to the Court an updated inmate account report for the months of February and March on March 20, 2020. ECF No. 11 at 1. The report reflects that on February 7, 2020,

\$45.25 was transferred into Rogopoulos' "spend" account, \$25.00 was transferred into his "hold" account, and \$433.99 was transferred into his "savings" account. *Id.* at 3.

On March 26, 2020, after reviewing the inmate account report provided by Dillwyn Correctional Center, the Court denied Rogopoulos' renewed request to proceed *in forma pauperis* and granted his motion for extension of time to pay his filing fee, extending his deadline to April 27, 2020. ECF Nos. 11–13. Rogopoulos was also granted an extension of time to submit his petition on the correct form, two copies of which have been provided to him. ECF No. 13 at 3. Rogopoulos was warned that if he failed to comply with the order within 30 days, the matter would be submitted to a United States District Judge for dismissal without prejudice. *Id.* at 2–3 (citing *Evans v. Croom*, 650 F.2d 521 (4th Cir. 1981)).

On April 16, 2020, Rogopoulos filed his second request for an extension of time to pay his filing fee, and again renewed his request to proceed *in forma pauperis*. ECF No. 14. He asserted that he had no job and no money in his spend account, and asserted that Dillwyn had been on lockdown since February 2020. *Id.*

Based on the information received from Dillwyn Correctional Center, the Court determined that Rogopoulos had access to sufficient funds to pay a filing fee of \$5.00, and denied Rogopoulos' renewed request to proceed *in forma pauperis* on April 21, 2020. ECF No. 15. The Court granted his motion for extension of time to pay his filing fee extending the deadline to May 22, 2020. *Id.* The order warned that failure to pay the fee, request an extension of time to pay the fee, or demonstrate that he lacks the ability to pay the fee, within 30 days would result in submission to a United States District Judge for dismissal without prejudice. *Id.* (citing *Evans v. Croom*, 650 F.2d 521 (4th Cir. 1981)).

While Rogopoulos did not request an extension of time to file his petition on the correct form, that deadline was also extended to May 22, 2020, due to his assertion that the correctional center had been on lockdown for an extended period of time. *Id.* Rogopoulos was warned that failure to file his amended petition on the form titled “Petition for Relief From a Conviction or Sentence By a Person in State Custody” by May 22, 2020, may result in a dismissal of the petition. *Id.* Finally, Rogopoulos was advised that “[a]bsent extreme circumstances, this will be the last extension granted with respect to the filing fee and filing an amended petition on the correct form.” *Id.*

No amended petition on the correct form, filing fee, request for extension of time to pay the filing fee, or a statement demonstrating Rogopoulos’ inability to pay the required fee has been received, and the time for responding to the order has expired.

It is therefore **RECOMMENDED** that Rogopoulos’ petition be **DISMISSED WITHOUT PREJUDICE** to Rogopoulos’ refiling his petition on the appropriate form with the appropriate filing fee or demonstration of an inability to pay the fee.

#### **REVIEW PROCEDURE**

By copy of this report and recommendation, Rogopoulos is notified that pursuant to 28 U.S.C. § 636(b)(1)(C):

1. Any party may serve upon the other party and file with the Clerk written objections to the foregoing findings and recommendations within fourteen (14) days from the date of mailing of this report to the objecting party, *see* 28 U.S.C. § 636(b)(1), computed pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. Rule 6(d) of the Federal Rules of Civil Procedure permits an extra three (3) days, if service occurs by mail. A party may respond to any other party’s

objections within fourteen (14) days after being served with a copy thereof. *See* Fed. R. Civ. P. 72(b)(2) (also computed pursuant to Rule 6(a) and (d) of the Federal Rules of Civil Procedure).

2. A district judge shall make a *de novo* determination of those portions of this report or specified findings or recommendations to which objection is made.

Rogopoulos is further notified that failure to file timely objections to the findings and recommendations set forth above will result in a waiver of appeal from a judgment of this Court based upon such findings and recommendations. *Thomas v. Arn*, 474 U.S. 140 (1985); *Carr v. Hutto*, 737 F.2d 433 (4th Cir. 1984); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

The Clerk shall mail a copy of this report and recommendation to Rogopoulos.

  
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Robert J. Krask  
United States Magistrate Judge

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Robert J. Krask  
United States Magistrate Judge

Norfolk, Virginia  
June 10, 2020

**Clerk's Mailing Certificate**

A copy of the foregoing was provided electronically to counsel for respondent and was mailed this date to:

William Rogopoulos, #1415219  
Dillwyn Correctional Center  
PO Box 670  
Dillwyn, VA 23963-0430

Fernando Galindo, Clerk

By /s/ J. L. Meyers  
Deputy Clerk

June 10, 2020